

**CITY OF BROOKLYN, OHIO**

**INCOME TAX RULES AND REGULATIONS**

**REVISED AS OF SEPTEMBER 10, 2001**

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# **CITY OF BROOKLYN, OHIO**

## **RULES AND REGULATIONS**

Issued Under Authority of Ordinance 2001-36

### **ARTICLE I**

Section 1 of the Ordinance deals only with the purposes for which the tax collected will be used.

### **ARTICLE II DEFINITIONS**

For the purposes of these Regulations the terms, phrases, words, and their derivatives shall have the meanings given in the next succeeding Articles of these Regulations. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

**ADMINISTRATOR.** Administrator means the individual designated to administer and enforce the provisions of the City of Brooklyn income tax.

**ASSIGNMENT.** The assignment made by a resident of Brooklyn of claim for refund due from another taxing municipality granting credit to non-residents thereof.

**ASSOCIATION.** Association means any partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

**BOARD OF REVIEW.** Board of Review means the Board created and constituted as provided in Section 13 of the Ordinance.

**BUSINESS.** Business means any enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, excluding however, all non-profit corporations which are exempt from the payment of Federal income tax.

**BUSINESS ALLOCATION.** Business allocation as used in these Regulations, means the portion of net profits to be allocated to the City of Brooklyn as having been made in the City of Brooklyn, either under separate accounting method, or under the three (3) factor formula of property, payroll, and sales, provided for in Section 4 of the Ordinance.

**CORPORATION.** Corporation means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.

**DOMICILE.** Domicile means that place where an individual has his true, fixed and permanent home, and principal establishment, and to which, whenever he is absent, he

has the intention of returning. All individuals have a domicile. The presumption exists that (i) anyone living in the City of Brooklyn, lacking another domicile is domiciled in the City of Brooklyn and (ii) anyone living in the City of Brooklyn for twelve (12) continuous months is domiciled in the City of Brooklyn.

**EMPLOYEE.** Employee means one who works for wages, salary, commission or other type of compensation in the service of an employer.

**EMPLOYER.** Employer means an individual, partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, or other basis of compensation.

**FISCAL YEAR.** Fiscal Year means an accounting period of twelve (12) months or less ending on any day other than December 31<sup>st</sup>.

**FUNDAMENTAL CHANGE.** Fundamental Change means any substantial alteration of an employer's business, including, without limitation, any liquidation, dissolution, bankruptcy or reorganization, such as merger, consolidation, acquisition, or transfer, or other change in identity, form or organization.

**GROSS RECEIPTS.** Gross Receipts means the total income from any source whatever, and shall include, but not be limited to, income in the form of commissions, fees, rentals, real and tangible personal property, and other compensation for work or services performed or rendered as well as income from sales of stock in trade.

**MANAGER.** Manager means any of the employer's directors, officers, partners, or other persons having control or supervision of the employer's business, and/or employees or other persons charged with the responsibility of filing the return, paying taxes, or otherwise complying with the Ordinance.

**NET PROFITS.** Net Profits means a net gain from the operation of a business, profession, enterprise, or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by the Ordinance, Federal, state and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners and other owners; and otherwise adjusted to the requirements of the Ordinance.

**NON-RESIDENT UNINCORPORATED BUSINESS ENTITY.** Non-Resident Unincorporated Business Entity means an unincorporated business entity not having an office or place of business within the City of Brooklyn.

**ORDINANCE.** Means Ordinance No. 2001-36 enacted by the Council of the City of Brooklyn, Ohio on September 10, 2001.

**PERSON.** Person means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clauses prescribing and imposing a penalty, the term “person,” as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

**PLACE OF BUSINESS.** Place of Business means any bona fide office (other than a mere statutory), factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.

**RESIDENT.** Resident means an individual domiciled in or whose usual place of abode is in the City of Brooklyn.

**RESIDENT UNINCORPORATED BUSINESS ENTITY.** Resident Unincorporated Business Entity means an unincorporated business entity having office or place of business within the City of Brooklyn.

**TAXABLE INCOME.** Taxable Income means wages, salaries and other compensation paid by an employer or employers before any deduction and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the Ordinance.

**TAXABLE YEAR.** Taxable Year means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under the Ordinance, and in the case of a return for a fractional part of a year, the period for which such return is required to be made.

**TAXPAYER.** Taxpayer means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.

### **ARTICLE III IMPOSITION OF TAX**

#### **A. Bases**

##### **1. Resident Employee:**

- a. In the case of residents of the City of Brooklyn an annual tax of two percent (2%) is imposed on all salaries, wages, commissions, and other compensation earned during the effective period of the Ordinance. For the purpose of determining the tax on the earnings of resident taxpayers taxed under Section 3, Paragraph (1) of the Ordinance, the source of the earnings and the place or places in or which the services were rendered, are immaterial. All such wherever earned or paid are taxable.

- b. The following are items which are subject to the tax imposed by Section 3, Paragraph (1) of the Ordinance.
  - 1. Salaries, wages, bonuses and incentive payments earned by an individual whether directly or through an agent and whether in cash or in property for services rendered during the tax period as:
    - 1. An officer, director or employee of a corporation (including charitable and other non-profit organizations), joint stock association, or joint stock company;
    - 2. An employee (as distinguished from a partner or member) of a partnership, limited partnership, or any form of unincorporated enterprise owned by two or more persons;
    - 3. An employee (as distinguished from a proprietor) of a business, trade or profession conducted by an individual owner;
    - 4. An officer or employee (whether elected, appointed or commissioned) of the United States Government or of a corporation created and owned or controlled by the United States Government, or any of its agencies; or of the State of Ohio or any of its political subdivisions or agencies thereof; or any foreign country or dependency except as provided in Section 4 of the Ordinance;
    - 5. An employee of any other entity or person, whether based upon hourly, daily, weekly, semi-monthly, monthly, annual, unit or production or piece work rates; and whether paid by an individual, partnership, association, corporation (including charitable and other non-profit corporations), government administration, agency, authority, board, body, branch, bureau, department, division, sub-division, section or unit, or any other entity.
  - 2. Commissions earned by a taxpayer whether directly or through an agent and whether in cash or in property for services rendered during the effective period of the Ordinance, regardless of how computed or by whom or wheresoever paid.
    - 1. If amounts received as a drawing account exceed the commissions earned and the excess is not subject to the demand of the employer for repayment, the tax is payable on the amounts received as a drawing account.
    - 2. Amounts received from an employer for expenses and used as such by the individual receiving them are not deemed to be compensation if the employer deducts such expenses or advances as such from his gross income for the purpose of determining his net profits taxable under

Federal law, and the employee is not required to include such receipts as income on his Federal income tax return.

3. If commissions are included in the net earnings of the trade, business, profession, enterprise, or activity, carried on by an unincorporated entity of which the individual receiving such commission is owner or part owner and therefore subject to the tax under paragraphs (3) or (4) of Section 3 of the Ordinance, they shall not be taxed under Section 3, Paragraph (1).
3. Fees, unless such fees are properly includable as part of the net profits of a trade, business, profession, or enterprise regularly carried on by an unincorporated entity owned or partly owned by said individual and such net profits are subject to the tax under Section 3, Paragraph (3) of the Ordinance.
4. Other compensation, which shall include, but not be limited to, the following:
  1. Tips received by waiters or others;
  2. Gifts or gratuities of any type;
  3. Compensation paid to domestic servants, casual employees and other types of employees;
  4. Benefits resulting from employers assuming a tax imposed on employers;
  5. Fellowships, grants or stipends paid to a postgraduate student in the full amount (except that amount allocated in writing for tuition, books and laboratory fees);
  6. Dismissal or severance pay;
  7. Employee contributions to retirement plans are neither excludable nor deductible by the employee. Withholding applies to the employee's full compensation unreduced by an employee's contribution to a retirement plan. The same rules apply with respect to other amounts withheld from employees and contributed to other types of plans;
  8. Non-qualified stock options;
  9. Royalty Income-Income earned by a taxpayer from a royalty interest in the production of an oil or gas well whether managed, extracted or operated by the taxpayer individually or through an agent or other representative, shall be included in the computation of net profits from a business activity to the extent that such royalty interest constitutes a business activity to the taxpayer. Where the gross income received by a

taxpayer from a royalty interest in the production of an oil or gas well in a taxable year exceeds \$3,000.00, it shall be prima facie evidence that the income was derived from a business activity of such taxpayer and the net income from such royalty interest shall be subject to tax;

10. Deferred compensation;

11. Profit sharing plans;

12. Supplemental unemployment benefit pay;

13. If the income appears on Internal Revenue Service form W-2 and is not included in Article V as income not subject to taxation , it shall be considered other compensation and, therefore, taxable to a resident individual; and

14. The employer's income derived from finance and carrying charges associated with their consumer's accounts receivable.

5. Payments made to employees by an employer as vacation or holiday wages are taxable. Payments made to an employee by an employer under a wage continuation plan during periods of disability or sickness, are taxable.

c. Where compensation is paid or received in property, its fair market value, at the time of receipt, shall be subject to the tax and to withholding. Board, lodging and similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value.

1. In the case of domestics and other employees whose duties require them to live at their place of employment or assignment, board and lodging shall not be considered as wages or compensation earned.

## 2. Non-Resident Employee:

a. In the case of individuals who are not residents of the City of Brooklyn, there is imposed under Section 3, Paragraph (2) of the Ordinance, a tax of two percent (2%) on all salaries, wages, commissions, and other compensation, earned during the effective period of the Ordinance for work done or services performed or rendered within the City of Brooklyn whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property. The location of the place from which payment is made is immaterial.

b. The items subject to tax under Section 3, Paragraph (2) of the Ordinance are the same as those listed and defined in Article III-A.1.b and c. For the methods of computing the extent of such work or services performed within the City of Brooklyn, in cases



involving compensation for personal services partly within and partly without of the City of Brooklyn, see Article VII-2A.6.

- c. A non-resident individual who works in Brooklyn 12 or fewer days per year shall be considered an occasional entrant and shall not be subject to Brooklyn's municipal income tax for those 12 days. For purposes of the 12-day calculation any portion of a day worked in Brooklyn shall be counted as one day worked in Brooklyn. Beginning with the thirteenth day, the employer of said individual shall begin withholding Brooklyn income tax from the remuneration paid by the employer to the individual and shall remit the withheld income tax to Brooklyn. If the individual is self-employed it shall be the responsibility of the individual to remit the appropriate income tax to the City of Brooklyn. If two or more individuals of the same employer (even if they are independent contractors of that employer) perform work in Brooklyn related to the service for which the employer has been engaged, the individuals shall not be subject to the 12-day occasional entry rule but rather to the withholding rules that apply to \$150 de minimis amounts. The 12-day occasional entry rule does not apply to entertainers or professional athletes, their employees or individuals who perform services on their behalf, or to promoters and booking agents of such entertainment events and sporting events.
  - d. A non-resident employer, agent of such employer, or other payer not situated in Brooklyn shall not be required to withhold Brooklyn income tax from remuneration paid to employees of the employer until the collective tax liability of the employees initially exceeds \$150.00. Independent contractors of a non-resident employer shall be deemed employees for work performed in Brooklyn on behalf of the employer and are subject to the collective tax liability provision as if they were employees and are not excluded from taxation. When the collective tax liability exceeds \$150.00 the employer is required to begin withholding the appropriate income tax for Brooklyn on behalf of all employees performing work in Brooklyn. Once the collective tax liability has exceeded \$150.00 the employer must withhold income tax for Brooklyn for the remainder of that calendar year and for subsequent years, even if the liability in subsequent years does not exceed \$150.00. However, if the tax liability for each of the three consecutive years (subsequent to that year in which the employer became liable for withholding the income tax) does not exceed \$150.00, the employer will be considered as not having performed work in Brooklyn in regard to further tax liability, and will again be subject to the original rule provisions.
3. a. Imposition of Tax on Net Profits of Resident Unincorporated Business:
- 1. In the case of resident unincorporated businesses, professions, enterprises, undertakings, or other activities conducted, operated, engaged in, prosecuted or carried on, irrespective of whether such taxpayer has an office or place of business in the City of Brooklyn, there is imposed an annual tax of two percent (2%) on the net profits earned during the effective period of the Ordinance attributable to the City of Brooklyn, under the formula or separate accounting methods provided for in Section 4 of the Ordinance, derived from sales made, work done or services

performed or rendered and business or other activities conducted in the City of Brooklyn.

2. The tax imposed on resident associations or other unincorporated entities owned by two or more is upon the entities rather than the individual members or owners thereof but the tax imposed on an unincorporated resident entity owned by one person is upon the individual owner. (For tax on that part of a resident owner's distributive share of net profits not taxed against the entity, see Article III-A.4.b).
  3. The tax imposed by Section 3, Paragraph (3) a of the Ordinance is imposed on all resident unincorporated entities having net profits attributable to the City of Brooklyn under the method of allocation provided for in the Ordinance, regardless of where the owner or owners of such resident unincorporated business entity reside.
  4. Resident unincorporated entities owned by two or more persons all of whom are residents of the City of Brooklyn shall disregard the method of allocation provided for in the Ordinance and pay the tax on their entire net profits thereof. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of such net profits; however, an additional return shall be required from any such owner or member having taxable income other than the distributive share of the net profits from the entity. See Article X for credits.
- b. Imposition of Tax on Resident's Distributive Share of Profits of a Resident Unincorporated Business Entity, Not Attributable to the City of Brooklyn.
1. A resident individual who is sole owner of a resident unincorporated entity shall disregard the business allocation formula and pay the tax on the entire net profits of his resident unincorporated business entity. See Article X.
  2. In the case of a resident individual partner or part owner of a resident unincorporated entity, there is imposed an annual tax of two percent (2%) on such individual's distributive share of net profits earned during the effective period of the Ordinance not attributable to the City of Brooklyn, under the method of allocation provided for in Section 4 of the Ordinance, and not taxed against the entity. See Article X.
4. a. Imposition of Tax on Net Profits of Non-Resident Unincorporated Businesses:
1. In the case of non-resident unincorporated businesses, professions, enterprises, undertakings, or other activities conducted, operated, engaged in, prosecuted or carried on, there is imposed an annual tax of two percent (2%) on the net profits earned during the effective period of the Ordinance attributable to the City of Brooklyn, under the formula or separate accounting method provided for in the Ordinance derived from sales made, work done, services performed or rendered

and business and other activities conducted in the City of Brooklyn, whether or not such unincorporated business has an office or place of business in the City of Brooklyn.

2. The tax imposed on non-resident unincorporated entities owned by two or more persons is upon the entities rather than the individual members or owners thereof. (for tax on that part of resident owner's distributive share of net profits not taxed against the entity, see Article III-A.4.b)
  3. Non-resident unincorporated entities owned by two or more persons all of whom are residents of the City of Brooklyn may elect to disregard the method of allocation provided for in the Ordinance and pay the tax on the entire net profits. In such case, the tax paid by the entity shall constitute all tax due from the owners, or members of the entity for their distributive share of the net profits; however, a return shall be required from such owner or member having taxable income other than the distributive share of the net profit from the entity. See Article X for Credits.
- b. Imposition of Tax on Resident's Share of Profits of a Non-Resident Unincorporated Business Entity Not Attributable to the City of Brooklyn. See Article X for Credits.
1. A resident individual who is sole owner of a non-resident unincorporated business entity shall disregard the business allocation formula and pay the tax on the entire net profits of his unincorporated entity.
  2. In the case of a resident individual partner or part owner of a non-resident unincorporated entity, there is imposed an annual tax of two percent (2%) on such individual's distributive share of net profits earned during the effective period of the Ordinance not attributable to the City of Brooklyn under the methods of allocation provided for in Section 4 of the Ordinance and not taxed against the entity.
5. Imposition of Tax on Net Profits of Corporations.
- a. In the case of corporations, whether domestic or foreign and whether or not such corporations have an office or place of business in the City of Brooklyn, there is imposed an annual tax of two percent (2%) on the net profits earned during the effective period of the Ordinance attributable to the City of Brooklyn under the formula or separate accounting method provided for in the Ordinance derived from sales made, work done, services performed or rendered and business or other activities conducted in the City of Brooklyn.
  - b. In determining whether a corporation is conducting a business or other activity in the City of Brooklyn, the provisions of Article IV of these Regulations shall be applicable.

- c. Corporations which are required by the provisions of Section 5727.38 to 5727.41, inclusive, of the Revised Code of Ohio, to pay an excise tax in any taxable year as defined by the Ordinance, may exclude that part of their gross receipts upon which the excise tax is paid. In such case, expenses incurred in the production of such gross receipts shall not be deducted in computing net profits subject to the tax imposed by the Ordinance.

6. Effective Period.

- a. The tax imposed by Section 3, Paragraphs (1) and (2) of the Ordinance shall be levied, collected and paid with respect to salaries, wages, bonuses, incentive payments, commissions, fees, and other compensation earned during the effective period of the Ordinance.
- b. The tax imposed by Section 3, Paragraphs (3), (4) and (5) of the Ordinance, with respect to net profits of trades, businesses, professions, enterprise, undertakings and other activities is on the net profits earned during the effective period of the Ordinance.

7. Amplification.

In amplification of the definition contained in Article II of these Regulations but not in limitation thereof, the following additional information respecting net business profits is furnished.

a. NET PROFITS.

- 1. Net profits as used in the Ordinance and these Regulations means net profits derived from any business, profession or other activity or undertaking carried on for profit or normally carried on for profit.
- 2. Net profits as disclosed on any return filed pursuant to the provisions of the Ordinance shall be computed by the same accounting method used in reporting net income to the Federal Internal Revenue Service (providing such method does not conflict with any provisions of the Ordinance). Net profits, shown on returns filed pursuant to the Ordinance must be reconciled with the income reported to the Federal Internal Revenue Service.

b. GROSS RECEIPTS.

- 1. Gross Receipts shall include but not be limited to income in the form of commissions, fees, rentals from real and tangible personal property, and other compensation for work or services performed or rendered as well as income from sales of stock in trade.
- 2. From gross receipts there shall be deducted allowable expenses to arrive at the net profits subject to tax.

c. EXPENSES.

1. All ordinary and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed but no deduction may be claimed for salary or withdrawal of a proprietor or of the partners, members, or other owners of an unincorporated business or enterprise.

1. If not claimed as part of the cost of goods sold or elsewhere in the return filed, there may be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, losses resulting from theft or casualty, not compensated for by insurance or otherwise of property used in the trade or business, but the amount may not exceed that recognized for the purpose of the Federal income tax. Provided, however, that loss on the sale, exchange or other disposition of depreciable property or real estate, used in the taxpayer's business shall not be allowed as deductible expense.
2. Current amortization of emergency facilities under the provisions of the Internal Revenue Code, if recognized as such for Federal income tax purposes, may be included as an expense deduction hereunder.
3. Where depreciable property is voluntarily destroyed only the cost of such demolition and the undepreciated balance thereof will be allowed as an expense in the year of such demolition, to the extent allowable for Federal income tax purposes.
4. Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, or at the discretion of the Administrator (if the reserve method is used), a reasonable addition to the reserve may be claimed, but in no event shall the amount exceed the amount allowable for Federal income tax purposes.
5. Only taxes directly connected with the business may be claimed as a deduction. If for any reason the income from property is not subject to the tax, then taxes on and other expenses of said property are not deductible. In any event, the following taxes are not deductible from income: (A) the tax under the Ordinance; (B) Federal or other taxes based upon income; (C) gifts, estate or inheritance taxes; and (D) taxes for local benefits or improvements to property which tend to appreciate the value thereof.
6. In general, non-taxable income and expenses incurred in connection therewith are not to be considered in determining net profits. Income from intangibles, by way of dividends, interest and the like, shall not be included if such income is subject to taxation under the intangible

personal property laws of the state of Ohio or is specifically exempt from taxation under said law.

07. If the taxpayer reports income that is non-taxable under the Ordinance and such amounts are deducted in order to reconcile the City of Brooklyn return with the taxpayer's Federal income tax return, expenses attributable to such non-taxable income, and upon approval of the Administrator, such amount shall be deemed to equal five percent of such non-taxable income.
08. With respect to certain tangible personal property used in business, the "Federal Investment Credit" for current year investments, as determined for Federal income tax purposes, shall be treated as a deduction from income with respect to new or used property, (subject to Federal tax limitations in the case of used property, acquired after December 31, 1966), and the remaining costs shall be depreciated in succeeding years on the same basis used for Federal income tax purposes. In the event the "Federal Investment Credit" is required to be adjusted by reason of a sale or other early disposition affecting the original amount of the "Federal Investment Credit," such adjustment must be reported and treated as taxable income under the Ordinance in the year of such sale or other early disposition.
09. Capital gains and losses from sale, exchange or other disposition of property shall not be taken into consideration in arriving at net profits earned. Any amount received on a sale or other disposition of tangible personal property used in business, in excess of book value, shall be treated as taxable income under the Ordinance to the extent of depreciation allowable after January 1, 1967. The balance shall be treated as a capital gain.

#### **ARTICLE IV ALLOCATION OF BUSINESS PROFITS**

- A. A request to change the method of allocation must be made in writing before the end of the taxable year.
  1. Separate Accounting Method.
    - a. The net profits allocable to the City of Brooklyn from businesses, professional, or other activities conducted in the City of Brooklyn by corporations or unincorporated entities (whether resident or non-resident) may be determined from the records of the taxpayer if the taxpayer has bona fide records which disclose with reasonable accuracy what portion of his net profits is attributable to that part of his activities conducted within the City of Brooklyn.

- b. If the books and records of the taxpayers are used as the basis for apportioning net profits rather than the business allocation formula, a statement must accompany the return explaining the manner in which such apportionment is made in sufficient detail to enable the Administrator to determine whether the net profits attributable to the City of Brooklyn are apportioned with reasonable accuracy.
- c. In determining the income allocable to the City of Brooklyn from the books and records of a taxpayer, an adjustment may be made for the contribution made to the production of such income by headquarters activities of the taxpayer, whether such headquarters is within or without the City of Brooklyn.

## 2. Business Allocation Percentage Method.

- a. STEP 1: Ascertain the percentage which the average net book value of real and tangible personal property, including leasehold improvements, owned or used in the business and situated within the City of Brooklyn is of the average net book value of all real and tangible personal property, including leasehold improvements, owned or used in the business wherever situated, during the period covered by the return.
  - 1. The percentage of taxpayer's real and tangible personal property within the City of Brooklyn is determined by dividing the average net book value of such property within the City of Brooklyn (without deduction of any encumbrances) by the average net book value of all such property within and without the City of Brooklyn. In determining such percentage, property rented to the taxpayer as well as real and tangible personal property owned by taxpayer must be considered.
    - a. The net book value of real and tangible personal property rented by taxpayer shall be determined by multiplying gross annual rents payable by eight (8).
    - b. Gross rents means the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer for the use or possession of property and includes:
      - 1. Any amount payable for the use or possession of real and tangible personal property or any part thereof, whether designated as fixed sum of money or as a percentage of sales, profits or otherwise;
      - 2. Any amount payable as additional rent or in lieu of rent such as interest, taxes, insurance, repairs, or other amounts

required to be paid by the terms of a Case or other arrangement.

b. STEP 2: Ascertain the percentage which the total wages, salaries, commissions and other compensation of employees within the City of Brooklyn is of the total wages, salaries, commissions and other compensation of all the taxpayer's employees within the City of Brooklyn during the period covered by the return.

1. Salaries and reasonable compensation paid owners or credited to the account of owners or partners during the period covered by the return are considered wages for the purpose of this computation.
2. Wages, salaries and other compensation shall be computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the taxpayer.
3. In the case of an employee who performs services both within and without the City of Brooklyn, the amount treated as compensation for services performed within the City shall be deemed to be:
  - a. In the case of an employee whose compensation depends directly on the volume of business secured by him, such as salesman on a commission basis, the amount received by him for the business attributable to his efforts within the City of Brooklyn;
  - b. In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation received which the value of his services within the City of Brooklyn bears to the value of all his services; and
  - c. In the case of an employee compensated on a time basis, the proportion of the total amount received by him for which is his working time within the City of Brooklyn, is of his total working time.

c. STEP 3: Ascertain the percentage which the gross receipts of the taxpayer derived from sales made and services rendered in the City of Brooklyn is of the total gross receipts wherever derived during the period covered by the return.

1. The following sales shall be considered Brooklyn sales:
  - a. All sales made through retail stores located within the City of Brooklyn to purchasers within or without the City of Brooklyn except such of said sales to purchasers outside the City of Brooklyn that are directly attributable to regular solicitations made outside the City of Brooklyn personally by taxpayer's employees.



- b. All sales of tangible personal property delivered to purchasers within the City of Brooklyn if shipped or delivered from an office, store, warehouse, factory, or place of storage located within the City of Brooklyn.
  - c. All sales of tangible personal property delivered to purchasers within the City of Brooklyn even though transported from a point outside the City of Brooklyn if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of Brooklyn and the sale is directly or indirectly the result of such solicitation.
  - d. All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within the City of Brooklyn, to purchasers outside the City of Brooklyn, if the taxpayer is not through its own employees regularly engaged in the solicitation or promotion of sales at the place of delivery.
  - e. Charges for work done or services performed incident to a sale, whether or not included in the price of the property shall be considered gross receipts from such sale.
2. In the application of the foregoing sub-paragraphs a carrier shall be considered the agent of the seller regardless of the FOB point or other conditions of the sales; and the place at which orders are accepted or contracts legally consummated shall be immaterial. Solicitation of customers outside the City of Brooklyn by mail or phone from an office, or place of business within the City of Brooklyn shall not be considered a solicitation of sales outside the City of Brooklyn.
- d. STEP 4: Add the percentages determined in accordance with Steps 1, 2 and 3 or such of the aforesaid percentages as may be applicable to the particular taxpayer's business and divide the total so obtained by the number of percentages used in ascertaining said total. The result so obtained is the business allocation percentage. In determining the average percentage, a factor shall not be excluded from the computation merely because said factor is found to be allocable entirely outside the City of Brooklyn. A factor is excluded only when it does not exist anywhere.
  - e. STEP 5: The business allocation percentage determined in Step 4 above shall be applied to the entire taxable net profits of the taxpayer wherever derived to determine the net profits allocable to the City of Brooklyn.
3. Substitute Method:

- a. In the event a just and equitable result cannot be obtained under the formula, the Board, upon application of the taxpayer or the Administrator, may substitute other factors in the formula or prescribe other methods of allocating net income calculated to effect a fair and proper allocation.
- b. Application to the Board to substitute other factors in the formula or to use a different method to allocate net profits must be made in writing before the end of the taxable year and shall state the specific grounds on which the substitution of factors or use of a different method is requested and the relief sought to be obtained. A copy thereof shall be served at the time of filing upon the taxpayer or Administer as the case may be. No specific form need be followed in making such application. Once a taxpayer has filed under a substitute method, he must continue to so file until given permission to change by the Board of Review.

B. 1. Rentals from Real Property.

- a. Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed or operated by the taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.
- b. Where the gross monthly rental of any real properties, regardless of number and value, aggregate in excess of \$125.00 per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental properties shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based in a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceed \$125.00 per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds \$125.00 per month; and provided further that the person who operates a rooming house of five or more rooms rented shall be considered in business whether or not the gross income exceeds \$125.00 per month.
- c. In determining the amount of gross monthly rental of any real property, periods during which (by reason of vacancy or any other cause) rentals are not received shall not be taken into consideration by the taxpayer.
- d. Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.

- e. Real property, as the term is used in the regulation, shall include commercial property, residential property, farm property, and any and all other types of real estate.
- f. In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal income tax purposes.
- g. Residents of the City of Brooklyn are subject to taxation upon the net income from rentals (to the extent above specified), regardless of the location of the real property owned.
- h. Non-residents of the City of Brooklyn are subject to such taxation only if the real property is situated within the City of Brooklyn. Non-residents, in determining whether gross monthly rentals exceed \$125.00, shall take into consideration only real estate situated within the City of Brooklyn.
- i. Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the City of Brooklyn.

2. Patents and Copyrights.

- a. Income from patents or copyrights is not to be included in net profits subject to the tax if the income from such patents or copyrights is subject to the State Intangible tax. Conversely, such a state intangible tax is not deductible in determining City tax. Such items shall be clearly disclosed on an attachment to be filed with the City tax return.

C. Operating Loss Carry Forward.

- 1. The portion of a net operating loss, based on income taxable under the Ordinance, sustained in any taxable year subsequent to January 1, 1967 allocable to the City of Brooklyn may be applied against the portion of the profit of succeeding year(s) allocable to the City of Brooklyn, until exhausted but in no event for more than five (5) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.
- 2. In the event net profits allocated both within and without the City of Brooklyn, the portion of a net operating loss sustained shall be allocated to the City of Brooklyn in the same manner as provided herein for allocating net profits to the City of Brooklyn. The portion of a net operating loss to be carried forward shall be determined in the year the net operating loss is sustained, on the basis of the allocation factors applicable to that year.

The same method of accounting and allocation must be used in the year to which an operating loss is carried as was used in the year in which the operating loss was sustained.

3. In the case of fiscal years beginning prior to the effective date of the Ordinance, the net operating loss deduction will be that portion of the operating loss that the number of months of the fiscal year after the effective date of the Ordinance bears to the total number of months in such fiscal year.

4. A short fiscal year (a fiscal year of less than twelve [12] months) in cases where there has been a change in accounting period, where a new taxpayer selects a short fiscal year, or where a new taxpayer operates in the City of Brooklyn for less than his full accounting period, shall be considered as a full taxable fiscal year.

5. In any return in which a net operating loss deduction is claimed, a schedule should be attached showing:

- a. Year in which net operating loss was sustained.
- b. Method of accounting and allocation, used to determine portion of net operating loss allocable to the City of Brooklyn.
- c. Amount of net operating loss used as a deduction in prior years.
- d. Amount of net operating loss claimed as a deduction in current year.

6. The net operating loss of a business which loses its identity through merger, consolidation, etc., shall not be allowed as a carry-forward loss deduction to the surviving business entity.

7. In the case of a net operating loss in the filing of consolidation returns, see Article VI, Paragraph D.

**D. Non-Reimbursed Business Expenses.**

An individual taxpayer who is permitted for federal income tax purposes to deduct certain business expenses from gross wages, salaries or commissions (I.R.C. Section 62), may file a copy of Federal Income Tax Form 2106 or an itemized statement of expenses with his annual return and deduct such business expenses from his taxable income to the extent that they are attributable to the income taxed pursuant to the Ordinance. Any portion of 2106 expenses taxed in another locality shall be applied accordingly.

## **ARTICLE V SOURCES OF INCOME NOT TAXED**

The tax provided for herein shall not be levied on the following:

1. Pay or allowance of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literacy or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.
2. Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits received from local, State or Federal governments or charitable, religious or educational organizations.
3. Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
4. Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations.
5. Alimony received.
6. Personal earnings of any natural person under eighteen (18) years of age.
7. Compensation for personal injuries or for damages to property by way of insurance or otherwise.
8. Interest, dividends and other revenue from intangible property.
9. Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State of Ohio from which the City of Brooklyn is specifically prohibited from taxing, and income of a decedent's estate during the period of administration (except such income from the operation of a business).
10. Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the States or their political subdivisions to impose net income taxes on income derived from interstate commerce.
11. Salaries, wages, commission and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the City of Brooklyn to impose net income taxes.
12. Employer paid tuition paid on behalf of an employee participating in a course of education, provided that the employee was not entitled to choose between participating in the course of education or receiving as compensation an

amount equal to the amount otherwise paid by the employer as tuition for participation in such a course of education.

## **ARTICLE VI RETURN AND PAYMENT OF THE TAX**

### **A. Date and Requirement for Filing.**

1. On or before April 30<sup>th</sup> of the year following the effective date of the Ordinance and each year thereafter, every person subject to the provisions of Section 3, Paragraphs (1) to (5), inclusive, of the Ordinance shall, except as hereinafter provided, make and file with the Administrator, a return whether or not a tax be due.

2. If the return is made for a fiscal year or any period less than a year, said return shall be made within four (4) months from the end of each fiscal year or other period.

3. If any employer which is required to file a return and pay a tax under Section 3, Paragraphs (1) to (5), inclusive, of the Ordinance, undergoes a fundamental change with the effect that such employer is, or will be, no longer subject to Section 3, Paragraphs (1) to (5), inclusive, of the Ordinance, a final tax return for such employer shall be filed by the employer within thirty (30) days after the date of the fundamental change.

4. Every person subject to the provisions of Section 3 of the Ordinance shall, except as hereinafter provided, file a return setting forth the aggregate amount of salaries, wages, commissions and other personal service compensation, net profits from business or other activities, including the rental from use of real and personal property, and other income taxable under the Ordinance, received for the period covered by the return, the amount of tax imposed by the Ordinance on such earnings and profits and such other pertinent facts and information in detail as the Administrator may require.

5. Where an employee's entire earnings for the tax period are paid by an employer or employers, and the two percent (2%) tax thereon has in each instance been withheld and deducted by the employer or employers from the gross amount of the entire earnings of such employee-taxpayer, and where the employer of such employee has filed a report or return in which such employee's entire and only earnings are reported to the Administrator, and where such employee has no taxable income other than such earnings and the tax so withheld has been paid to the Administrator, such employee need only file an annual return.

6. An employee who is permitted to deduct business expenses from gross wages, salaries, or commissions must file a return in order to claim such

deduction even though all or part of such wages, salaries, or commissions are subject to withholding.

7. Any taxpayer who received taxable income not subject to withholding under the Ordinance must file a return.

8. Any taxpayer having income, wages, or other compensation for which a return must be filed, and also having net profits from a business covering the same or different period, is required to file only one return.

9. Trustees of active trusts are required to file returns and pay the tax on the taxable income thereof.

10. Except as provided for herein, the tax is on the partnership or association as an entity whether resident or non-resident and a return is required disclosing the net profits allocable to the City of Brooklyn and the tax paid thereon. However, any resident partner or resident member of an unincorporated entity is required to make a return and pay the tax in accordance with Article III-A.4.b. of these Regulations.

11. A husband and wife may, in any tax year, elect to file separate or joint returns.

12. Operating losses from business or professional activities, the profits of which would be taxable under the Ordinance, may not offset against salaries, wages, commissions and other personal service compensation. Such losses may offset profits from other business or professional activities and shall be allowable as an operating loss carry forward under Section 4 of the Ordinance or Article IV of these regulations.

**B. Information Required and Reconciliation With Federal Returns.**

1. In returns filed hereunder, there shall be set forth the aggregate amount of salaries, wages, bonuses, incentive payments, commissions, fees and other compensation subject to the tax earned from each employer, taxable net profits and other pertinent information as the Administrator may require.

2. Where figures of total income, total deductions, and net profits are included, as shown by a Federal return, any items of income as are not subject to the City of Brooklyn tax and unallowable expenses shall be eliminated in determining net income subject to the City of Brooklyn tax. In the absence of records showing the actual unallowable expenses, such shall be determined in accordance with Article III-7.c.1.07 of these Regulations. The fact that any taxpayer is not required to file a Federal tax return does not relieve him from filing a City of Brooklyn tax return.

3. If a change in Federal income tax liability, made by the Federal Internal Revenue Service, or by a judicial decision, results in an additional amount of tax payable to the City of Brooklyn, a report of such change shall be filed by the taxpayer within three (3) months after receipt of the final notice from the Federal Internal Revenue Service or Final Court decision. See Article IX.

4. If a change in Federal income tax liability results in a reduction of taxes owed and paid to the City of Brooklyn, a claim for refund shall be filed with the Administrator as prescribed in Section 9 of the Ordinance and Article IX of these Regulations.

C. Extensions.

1. Upon request of the taxpayer made on or before the date for filing the return and for good cause shown, the Administrator may extend the time for filing such return for a period of not to exceed six (6) months, or to one (1) month beyond any extension requested of or granted by the Federal Internal Revenue Service if such request for extension of the time for such filing is filed with the Administrator no later than the latest date on which a return is otherwise due to be filed under Section 6 of the Ordinance, exclusive of any extensions provided for therein. Whenever he deems such necessary, the Administrator may require a tentative return accompanied by payment of the estimated tax. No penalty or interest will be assessed in those cases in which the return is filed with the final tax paid within the period as extended provided all other filing and payment requirements of the Ordinance have been met.

2. Information returns, schedules and statements needed to support tax returns are to be filed within the time limits set forth for filing the tax returns.

D. Consolidations Returns.

1. Consolidated returns may be filed by a group of corporations who are affiliated through stock ownership. For a subsidiary corporation to be included in a consolidation return, 80% of its stock must be owned by the other members of the affiliated group. A consolidation return must include all companies which are so affiliated.

2. Once a consolidated return has been filed for any taxable year the consolidated group must continue to file consolidated returns in subsequent years unless:

- a. Permission in writing is granted by the Administrator to file separate returns.



- b. A new corporation other than a corporation created or organized by a member of the group has become of the group during the taxable year.
- c. A corporation member of the group is sold or exchanged. Liquidating a corporation or merging one of the corporations of the group into another will not qualify the group for filing separate returns.

3. If a corporation becomes a member of the group during the taxable year the consolidation return must include the income for the entire taxable year of the common parent corporation and any subsidiaries which were members of the group for the entire year, plus the income of each subsidiary which becomes a member of the group during the year for the period beginning with the date it became a member of the affiliated group. For the period prior to the time any subsidiary became a member of the group, separate returns must be filed for that subsidiary. When a subsidiary ceases to be a member of the affiliated group, the consolidation return must include the income of such subsidiary for the period during which it was a member of the group, but for the period after it ceases to be member, separate returns must be filed. If a corporation has been a member of the affiliated group for less than one month of the taxable year of the group, it may be considered as not being part of the group. Similarly, a subsidiary may be considered as being a member of the affiliated group during the entire taxable year of the group if the period during which it was not a member of the group does not exceed one (1) month.

If a subsidiary is a member of the consolidated group for only a part of a taxable year, the income considered to be earned in such fractional part of the year shall be that portion of the net income for the entire year which the number of days it was a member of the group bears to the total number of days in the taxable year.

4. In determining the allocation fraction where a corporation becomes a member of the group or ceases to be a member of the group during the taxable year, the property fraction (Step 1 of the formula) shall be determined on the basis of the average net book value of the property during the period such corporation was a member of the group. The rental portion of the fraction, however, shall be computed at eight (8) times the annual rent. The gross receipts and wage fraction shall be based on the actual figures.

5. All subsidiary corporations must agree in writing to the filing of the consolidated return as they, as well as the parent corporation, will liable for the tax.

6. The net operating loss carryover of a corporation which filed a separate return in a prior year may be carried over to the consolidated return but will be limited in amount to the amount of that same corporation's net income included in

the consolidation. The net operating loss carryover from a separate year shall be deducted first before application of the allocation fraction. After application of the allocation fraction the consolidated net operating loss carryover allocated to the City of Brooklyn shall be allowed.

7. In consolidating the net income, the taxable income of each corporation shall be computed in accordance with the provisions governing the taxable income of separate corporations except that there shall be eliminated unrealized profits and losses in transactions between members of the affiliated group.

8. In determining expenses that are not allowable because they are allocated to non-taxable income, such calculations shall be based on the consolidated net income. As an example, inter-company dividends which are eliminated in the consolidation will not be taken into consideration in determining nontaxable income.

E. Amended Returns.

1. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Section 9,9.1, 9.2 and 10 of the Ordinance. A taxpayer may not change the method of accounting or appointment of net profits after the due date for filing the original return.
2. Within three (3) months from the final determination of any Federal tax liability affecting the taxpayer's City of Brooklyn tax liability, such taxpayer shall make and file an amended City of Brooklyn return showing income subject to the City of Brooklyn tax based upon such final determination of Federal tax liability, and pay an additional tax shown due thereon or make claim for refund of any overpayment.

## ARTICLE VII-1

A. Payment With Return.

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 7 of the Ordinance, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 7 of the Ordinance, or where an income tax has been paid on the same income to another municipality, credit for the amount so paid in accordance with Article 10 hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

2. A taxpayer who has overpaid the amount of tax to which the City of Brooklyn is entitled under the provisions of the Ordinance, may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.
3. Each manager shall be jointly and severally personally liable to the City of Brooklyn to the extent of the amount of tax due, plus interest and penalty, if any, for failure to file the employer's return or to pay the employer's tax, interest and penalty as required under the Ordinance. No change in structure by an employer, including a fundamental change, discharges each of its managers from the joint and several personal liability of this subsection for the employer's or manager's failure to file the employer's return or to pay the employer's tax, interest and penalty as required under the Ordinance.

## **ARTICLE VII-2**

### **A. Collection of Tax at the Source.**

1. Except as otherwise provided herein, it is the duty of each employer within or doing business within the City of Brooklyn, who employs one or more persons whether as an employee, officer, director, or otherwise, to deduct each time any compensation is paid the tax of two percent (2%) from:
  - a. The gross amount of all salaries, wages, bonuses, incentive payments, fees, commission or other forms of compensation paid to residents of the City of Brooklyn, regardless of the place where the services are rendered; and
  - b. All compensation paid non-residents for services rendered, work performed or other activities engaged in within the City of Brooklyn.
2. All employers within or doing business within the City of Brooklyn are required to make the collections and deductions specified in this Article, regardless of the fact that the services on account of which any particular deduction is required, as to residents of the City of Brooklyn, were performed outside the City of Brooklyn.
3. Employers who do not maintain a permanent office or place of business in the City of Brooklyn, but who are subject to tax on net profits attributable to the City of Brooklyn, under the method of allocation provided for in the Ordinance, are considered to be employers within the City of Brooklyn and subject to the requirement of withholding.

4. The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation paid. If the employer has withheld the tax and failed to pay the tax withheld to the Administrator, the employee is not liable for the tax so withheld.
5. Commissions and fees paid to professionals, brokers and others who are independent contractors, and not employees of the payer, are not subject to withholding or collection of the tax at the source. Such taxpayers must in all instances file a declaration and return and pay the tax pursuant to the provisions of the Ordinance and Article VII of these Regulations.
6. Where a non-resident receives compensation for personal services rendered or performed partly within and partly without the City of Brooklyn, the withholding employer shall deduct, withhold and remit the tax on that portion of the compensation which is earned within the City of Brooklyn, in accordance with the following rules of appointment:
  - a. If the non-resident is a salesman, agent or other employee whose compensation depends directly on the volume of business transacted or chiefly effected by him, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted or chiefly effected by the employee within the City of Brooklyn bears to the total volume of business transacted by him within and outside the City of Brooklyn.
  - b. The deducting and withholding of personal service compensation of other non-resident employees, including officers of corporations, shall attach to the proportion of the personal service compensation of such employee which the total number of his working hours within the City of Brooklyn is of the total number of working hours.
  - c. The fact that non-resident employees are subject to call at any time does not permit the allocation of pay for time worked within the City of Brooklyn on a seven-day week basis. The percentage of time worked in the City of Brooklyn will be computed on the basis of a forty-hour week unless the employer notifies the Administrator that a greater or lesser number of hours per week is worked.
  - d. The occasional entry into the City of Brooklyn of a non-resident employee who performs the duties for which he is employed primarily outside the City, shall not be deemed to take such

employee out of the class of those rendering their services entirely outside the City of Brooklyn.

- e. Twelve Day Occasional Entry Rule: A non-resident individual who works in Brooklyn 12 or fewer days per year shall be considered an occasional entrant and shall not be subject to Brooklyn's municipal income tax for those 12 days. For purposes of the 12-day calculation any portion of a day worked in Brooklyn shall be counted as one day worked in Brooklyn. Beginning with the thirteenth day, the employer of said individual shall begin withholding Brooklyn income from the remuneration paid by the employer to the individual and shall remit the withheld income tax to Brooklyn. If the individual is self-employed it shall be the responsibility of the individual to remit the appropriate income tax to the City of Brooklyn. If two or more individuals of the same employer (even if they are independent contractors of that employer) perform work in Brooklyn related to the service for which the employer has been engaged, the individuals shall not be subject to the 12-day occasional entry rule but rather to the withholding rules that apply to \$150 deminimus amounts. The 12-day occasional entry rule does not apply to entertainers or professional athletes, their employees or individuals who perform services on their behalf, or to promoters and booking agents of such entertainment events and sporting events.
- f. \$150.00 Deminimus Rule: A non-resident employer, agent of such employer, or other payer not situated in Brooklyn shall not be required to withhold Brooklyn income tax from remuneration paid to employees of the employer until the collective tax liability of the employees initially exceeds \$150.00. Independent contractors of a non-resident employer shall be deemed employees for work performed in Brooklyn on behalf of the employer and are subject to the collective tax liability provision as if they were employees and are not excluded from taxation. When the collective tax liability exceeds \$150.00 the employer is required to begin withholding the appropriate income tax for Brooklyn on behalf of all employees performing work in Brooklyn. Once the collective tax liability has exceeded \$150.00 the employer must withhold income tax for Brooklyn for the remainder of that calendar year and for subsequent years, even if the liability in subsequent years does not exceed \$150.00. However, if the tax liability for each of the three consecutive years (subsequent to that year in which the employer became liable for withholding the income tax) does not exceed \$150.00, the employer will be considered as not having performed work in

Brooklyn in regard to further tax liability, and will again be subject to the original rule provisions.

7. An employer shall withhold the tax on the full amount of daily advances made to an employee on account of commissions.
8. An employer required to withhold the tax on compensation paid to an employee shall, in determining the amount on which the tax is to be withheld, ignore any amount allowed and paid to the employee for expenses necessarily and actually incurred by the employee in the actual performance of his services, provided such expenses are incurred in earning compensation, including commissions, and are not deducted as a business expense by the employee under Article III of these Regulations.
9. An employer whose records show that an employee is a non-resident of the City of Brooklyn and has no knowledge to the contrary, shall be relieved of the responsibility of withholding the tax on personal service compensation paid to such employee for services rendered or work done outside the City of Brooklyn by such employee, provided, however, that such employer must withhold the tax on all personal service compensation paid such employer after the Administrator notifies said employer in writing that such employee is a resident of the City of Brooklyn. All employees are required to notify the employer of any change of residence and the date thereof.
10. A Brooklyn employer required to withhold the tax from a City of Brooklyn resident for work done or services performed in another municipality, and who does so withhold and remit to such other municipality, shall be relieved from the requirement of withholding the Brooklyn tax from such City of Brooklyn resident, except where the rate of tax for such other municipality is less than the rate of tax imposed by the City of Brooklyn Ordinance. In such case the employer shall withhold and remit the difference to the City of Brooklyn.
11. Subject to approval by the Board of Review, the Administrator shall have authority to permit the filing of individual returns and payment thereon of employers of less than four (4) employees and to enter into agreements with other taxing municipalities permitting an employer to withhold the entire tax on the wages of a taxpayer working in more than one taxing municipality either for the taxing municipality in which the employer has his principal place of business or the taxing municipality in which the employee resides.
12. No person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about

such person's residence, but such employee shall be subject to all of the requirements of the Ordinance.

13. Each manager shall be deemed to be a trustee for the benefit of the City of Brooklyn in collecting and holding the tax required under Section 7.1 (A) of the Ordinance to be withheld, and the funds so collected by such withholding shall be deemed to be trust funds held for the benefit of the City of Brooklyn. Each manager shall be jointly and severally personally liable to the City of Brooklyn, to the extent of the amount of tax withheld or to have been withheld, plus interest and penalty, if any, for payment of such trust funds, whether or not such trust funds were actually collected by such employer or manager. Any tax so deducted and withheld is to be considered paid to the City of Brooklyn for purposes of determining employee payments or credits, whether or not such employer or manager actually remits such tax to the City of Brooklyn. No change in structure by an employer, including a fundamental change, discharges each of its managers from the joint and several personal liability for the employer's or manager's failure to remit such trust funds to the City of Brooklyn.
14. Payment of any tax due under Section 7.1 of the Ordinance shall be deemed to be made within the time prescribed thereunder if made no later than three (3) days after the last day prescribed thereunder for such payment.

B. Return and Payment of Tax Withheld and Status of Employers.

1. The deductions from salaries, wages, and other compensation required to be made by employers are to begin with the compensation earned on and after the effective date of the Ordinance.

The employer (in addition to any return required to be filed with respect to his own earnings or net profits) shall, on or before the last day of the month next following each quarterly period, make a return and pay to the Administrator the full amount of the tax so deducted or withheld with respect to compensation paid all of his employees subject to the tax under the Ordinance; provided, however, that where he deems such precaution necessary, the Administrator may require an employer to remit withholding taxes at more frequent intervals; provided further that any employer who deducts \$400.00 or more in the first or second month of a calendar quarter shall remit to the Administrator the amount withheld on or before the last day of the following month. The tax withheld during the third month of the calendar quarter shall be due and payable at the regular time for filing the quarterly report.

2. Excess Withholding. If more than the amount of tax to be deducted by the Ordinance is withheld from an employee's pay, such excess may be refunded by

the employer or the Administrator, depending upon the circumstances and the time when the over-withholding is determined as follows:

a. Current employees:

1. If the over-withholding is discovered in the same quarterly period, the employer shall make the necessary adjustment directly with the employee and the amount to be reported on the quarterly form as withheld shall be the corrected amount.

2. If the over-withholding is discovered in a subsequent quarter of the same calendar year the employer may make proper adjustment with the employee. In such case, the form for the quarter in which the adjustment is made indicate the total amount actually withheld, the amount of the adjustment deducted therefrom, and the corrected amount reported on the form.

3. If the over-withholding is discovered in the following year, the employee must make and file a request for refund. Upon review and approval of duly filed request for refund, the Administrator shall refund to the employee the amount of such excess withholding. No refund of excess withholding, in whole or in part, shall be made prior to the filing of or during the review of a request for refund.

b. Former employees:

1. In the event that such excess has been withheld from an employee who is no longer employed by the employer, the employer shall notify the Administrator in writing of the amount and circumstances of such over-withholding, and shall include such evidence as is necessary to substantiate the claim of over-withholding and after review of the written notification and accompanying evidence, if the Administrator determines from such evidence that the claim of over-withholding is legitimate, the Administrator shall then refund to the employee the amount of such excess withholding; or

2. If the error is discovered by the employee such employee shall file a request for refund with the Administrator. Upon verification thereof by the employer and review and approval of a duly filed request, the Administrator shall refund to the employee the amount of such excess withholding. No refund of excess withholding, in whole or in part, shall be made prior to the filing of or during the review of a request for refund.



c. Non-Residents Employed Outside the City:

1. Where an employer has withheld the tax from all wages of a nonresident of the City of Brooklyn and such non-resident has been employed outside of the City of Brooklyn for all or a part of the time, such employee shall file a request for refund with the Administrator covering such erroneous withholding. Upon verification thereof by the employer and review and approval of a duly filed request, the Administrator shall refund to the employee the amount of such excess withholding. No refund of excess withholding, in whole or in part, shall be made prior to the filing of or during the review of a request for refund.

3. Insufficient Withholding. If less than the amount of tax required to be deducted is withheld from an employee, such deficiency shall be withheld from subsequent wages. However, if the employee-employer relationship has terminated, the employer shall notify the Administrator of such deficiency and the reason thereof and shall pay to the City of Brooklyn the amount of such insufficiency.

4. Every employer is deemed to be trustee for the City of Brooklyn in collecting and holding the tax required under the Ordinance to be withheld and the funds so collected by such withholding are deemed to be trust funds.

5. Every such employer required to deduct and withhold the tax at the source is liable directly to the City of Brooklyn for payment of such tax whether actually collected from such employee or not.

6. On or before the 31<sup>st</sup> day of January, following any calendar year in which such deductions have been made by an employer, such employer shall file with the Administrator the information return for each employee from whom the City of Brooklyn income tax has been withheld, showing the name, address and social security number of the employee, the total amount of compensation paid during the year and the amount of City of Brooklyn income tax withheld from such employee.

7. For the convenience of employers, the information return may be made in one of three ways at the election of each employer, as follows:

a. Those employers using Form W-2 furnished commercially, may submit a copy of such commercial Form W-2 providing the copy furnished the City of Brooklyn clearly shows the information required in Paragraph 6 immediately preceding.

b. Those employers not using Form W-2 furnished commercially may obtain forms upon request from the Administrator.

c. Where the furnishing of this information as above indicated will create a distinct hardship, the employer, upon written request to the Administrator, may be permitted to furnish a list of all employees subject to the tax, which list shall show the employee's full name, last known address, social security number, gross amount of compensation paid during the year and the amount of Brooklyn income tax withheld. Such list may be compiled on any mechanical equipment presently used by the employer, but provision must be made for spacing equal to at least three lines between each name. The employer's name must be indicated on each sheet, each sheet must be numbered and the total number of sheets comprising the complete report indicated on the first page.

d. The gross compensation to be reported for each employee shall be for the full twelve (12) calendar months of the year or such portion thereof as the employee reported on was employed.

8. In addition to such information returns, and at the time the same are filed, such employer shall file with the Administrator a reconciliation of the sum total of compensation paid and taxes withheld as disclosed by information return W-2, or list of employees, and prior returns and remittances made pursuant to the Ordinance.

C. Fractional Parts of Cent.

In deducting and withholding the tax at the source and in payment of any tax due under the Ordinance, a fractional part of a cent shall be disregarded unless it amounts to one-half cent (1/2c) or more in which case it shall be increased to one cent (1c).

### **ARTICLE VII-3 DECLARATIONS**

A. Requirement of Filing.

1. A declaration of estimated tax shall be filed by every taxpayer who may reasonably be expected to have taxable income, the tax on which is not or will not be withheld by an employer or employers. Where required such declaration shall be filed on or before April 30 of each year or within four (4) months of the date the taxpayer becomes subject to the tax for the first time. If the estimated tax for the current year, less the tax to be withheld and less credit provided for in Section 10 of the Ordinance, is less than one hundred dollars (\$100.00), no declaration or payment of estimated tax is required.

2. A taxpayer's final return for the preceding year may be used as the basis for computing his declaration of estimated tax for the current year. In the event a

taxpayer has not previously been required to file a return, declaration of estimated tax on anticipated income shall be filed in good faith.

B. Date of Filing.

1. A person or other entity conducting a business not previously subject to the tax, or whose employer does not withhold the tax, shall file a declaration on or before April 30 of each year or within four (4) months after the date he becomes subject to the tax.

2. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration within four (4) months after the start of each fiscal year or period.

3. The Administrator may extend the time for filing any declaration required under Section 7.3 of the Ordinance, making any payment accompanying such declaration required under Section 7.5 of the Ordinance, or performing any other act, which is required by the provisions of Section 7.2 through Section 7.6, inclusive, of the Ordinance, for a period of not to exceed six (6) months beyond the original required date upon the written request of the taxpayer on the form furnished by or obtainable upon request from the Administrator, if such written request is filed no later than the latest date on which such filing, such payment or such other action may be done or made.

C. Form for Filing.

1. Such declaration shall be filed; provided, however, credit shall be taken for the City of Brooklyn tax to be withheld from any portion of such income. In accordance with the provisions of Section 10 of the Ordinance, credit may be taken for tax to be withheld and remitted to another taxing municipality.

2. The original estimate of tax liability or any subsequent amendment thereof may be increased by filing an amended declaration on or before any quarterly payment date as set forth in Article VII-3D.1.

3. Each person engaged in any transient business, profession, enterprise or activity subject to the tax imposed by Section 3 of the Ordinance may be required to immediately file a declaration of estimated income and pay the estimated tax due thereon prior to the issuance of any permits or licenses by the City of Brooklyn or the execution of any rental agreement for the use of property of the City of Brooklyn for an event that will give rise to income subject to the tax imposed by Section 3 of the Ordinance.

D. Dates of Payments.

1. The estimated tax may be paid in full with the declaration or by a payment of at least  $\frac{1}{4}$  of the estimated annual tax and in equal installments on or before the last day of the sixth, ninth and twelfth months thereafter.

2. The declaration must be accompanied by at least one-fourth ( $\frac{1}{4}$ ) of the estimated tax shown due thereon.

3. In the event an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments over the remaining payment dates applicable to the payment of such estimated tax.

E. Annual Returns Required.

1. The filing of a declaration does not relieve the taxpayer of the necessity of filing a final return even though there is no change in the declared tax liability. A final return must be filed to obtain a refund of any overpayment of over one dollar (\$1.00). However, any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time, in lieu of filing a declaration or amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.

**ARTICLE VIII-1  
INTEREST AND PENALTIES**

A. Interest.

1. Except as provided in Paragraph C of this Article, if any amount of the tax imposed by the Ordinance, including all taxes withheld, or required to be withheld, by employers and all installments of estimated taxes required to be paid, is not paid on or before the last date prescribed for payment, interest in the amount of two percent (2%) per month or fraction thereof shall immediately become due on such amount.

B. Penalties.

In addition to interest as provided in Paragraph A hereof, penalties based on the unpaid tax are hereby imposed as follows:

1. For failure to pay taxes due, on or before that last date prescribed in the Ordinance for payment, other than taxes withheld: two percent (2%) per month or fraction thereof or thirty-five dollars (\$35.00), whichever is greater, not to exceed fifty percent (50%) of the amount of taxes not paid; minimum penalty \$35.00.

2. For failure to remit taxes withheld from employees, on or before the last date prescribed in the Ordinance for payment: four percent (4%) per month or fraction thereof, not to exceed fifty percent (50%) of the amount of taxes not remitted.

3. For failure to file a return within the time period provided under Section 6 of the Ordinance: \$25.00 for the late filing of such return. Each manager shall be personally liable to the extent of the penalty, jointly and severally, with the employer for failure to file the employer's return within the time period provided under Section 6 of the Ordinance. No fundamental change shall discharge any manager or employer for failure to file such employer's return within the time period provided in Section 6 of the Ordinance.

4. If the sum of the amounts of quarterly installment payments made for the current tax year totals less than eighty percent (80%) of the amount of tax due for such year, as shown by the annual return, a penalty of twenty-five dollars (\$25.00) shall be assessed: provided, however, that no such penalty shall be assessed if the amount of quarterly installment payments made for such current tax year is equal to or greater than the amount of the tax due for the immediately preceding tax year.

C. Exceptions.

1. No penalty shall be assessed on additional taxes found on audit to be due when a return was timely filed in good faith and the tax paid thereon within the prescribed time.

2. In the absence of fraud, neither penalty nor interest shall be assessed on any additional taxes resulting from a Federal audit for Federal income tax purposes provided an amended return is filed and the additional tax paid within three (3) months after final determination of the Federal tax liability.

D. Abatement of Interest and Penalty.

1. Upon recommendation of the Administrator, the Board of Review may abate penalty and/or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both for good cause shown.

**ARTICLE VIII-2  
VIOLATIONS, PENALTIES**

A. Any person who shall:

1. Fail, neglect or refuse to make any return or declaration required by the Ordinance; or

2. Make any incomplete, false or fraudulent return; or
3. Fail, neglect or refuse to pay the tax, penalty or interest imposed by the Ordinance; or
4. Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
5. Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer; or
6. Fail to appear before the Administrator and to produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
7. Refuse to disclose to the Administrator any information with respect to the income or net profit of a taxpayer; or
8. Fail to comply with the provisions of the Ordinance or any order to subpoena of the Administrator authorized hereby; or
9. Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
10. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City of Brooklyn tax withheld, or to knowingly give the Administrator false information; or
11. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by the Ordinance,

shall be guilty of a first degree misdemeanor and shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned not more than six (6) months or both, for each offense.

B. Prosecutions.

Prosecutions for violations of any of the provisions of the Ordinance shall be commenced within the period provided for by the general laws of the State of Ohio.

C. Failure to Receive Forms – Not a Defense.

The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, declaration or return, from filing such form, or from paying the tax. The City of Brooklyn accepts generic forms.

D. Unpaid Sums – A Civil Debt.

1. All taxes imposed by the Ordinance and not paid when due become, together with interest and penalties thereon, a debt due the City from the taxpayer and are recoverable as are other debts by civil suit. Employers who are required, under Section 7 of the Ordinance, to withhold and remit the taxes required to be withheld at the source, and who fail to withhold and/or remit, become liable to the City in a civil action to enforce the payment of the debt created by such failure. Civil actions to recover such taxes and penalties and interest on such taxes shall be brought within the time period provided for by the general laws of the State of Ohio.

2. No additional assessment shall be made by the Administrator after three (3) years from the time the return was due or filed, whichever is later; provided, however, there shall be no period of limitation on such additional assessments in the case of a return that omits a substantial portion of income, or filing a false or fraudulent return to evade payment of the tax, or failure to file a return. Failure to report 25% or more of gross income shall be considered a substantial omission.

3. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitations, the period within which an assessment may be made by the Administrator is extended to one (1) year from the time of final determination of Federal income tax liability.

## **ARTICLE IX REFUNDS OF TAXES ERRONEOUSLY PAID**

A. Refunds and Overpayments.

1. The taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made, or the return was due, or three (3) months after the determination of the Federal income tax liability, whichever is later.

2. No refund shall be made to any taxpayer until he has complied with all provisions of the Ordinance and has furnished all information required by the Administrator.

3. Overpayments will be either refunded or credited to the taxpayer's current year's liability at his option. Where no election has been made by the taxpayer, overpayments of any year's taxes shall be applied as follows:

a. To taxes owed for all previous years in the order in which such taxes become due.

b. To his current estimated tax liability.

B. Limitation.

Where the total amount due or refund claimed for a tax is less than one dollar (\$1.00) such amount shall not be collected or refunded.

**ARTICLE X  
RELIEF AND RECIPROCITY PROVISIONS**

A. Residents of Brooklyn. Resident individuals of Brooklyn who are required to and do pay, or have acknowledged liability for, a municipal income tax to another municipality on or measured by salaries, wages, commissions or other compensation for work done or services performed therein, or on net profits from businesses, professions or other activities conducted therein, may claim a credit of the amount of tax paid by them or on their behalf to such other municipality but not in excess of the tax assessed by the Brooklyn Ordinance on such income; provided, however, that a resident of the City of Brooklyn shall not be entitled to such credit in the event he shall fail, neglect or refuse to timely file a return or form as is prescribed by the Administrator and required by the Ordinance.

**ARTICLE XI  
DISBURSEMENTS OF FUNDS COLLECTED**

NO REGULATION AS THIS PERTAINS TO THE USE OF FUNDS  
COLLECTED UNDER THE ORDINANCE AND NOT TO ITS ADMINISTRATION.

**ARTICLE XII  
DUTIES OF THE ADMINISTRATOR**

A. Collection of Tax and Retention of Records.

1. It shall be the duty of the Administrator to receive the tax imposed by the Ordinance in the manner prescribed therein from the taxpayers; to keep an accurate record thereof, and to report all moneys so received; provided, however, that nothing in this Article XII, Section 12 of the Ordinance or elsewhere in the Ordinance shall be construed to prohibit the designation and use by the Administrator of public depository, as defined in Chapter 135 of the Ohio Revised Code, to receive on behalf of the City of Brooklyn established therefor with such public depository, the tax, including any penalties and interest thereon, imposed by the Ordinance.



2. It shall be the duty of the Administrator to enforce payment of all taxes owing the City of Brooklyn, to keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

B. Enforcement Provisions.

1. The Administrator is charged with the administration and enforcement of the provisions of the Ordinance and is, subject to the approval of the Board of Review, empowered to adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the Administration and enforcement of the Ordinance. The Administrator has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary to accomplish the intent of the Ordinance.

2. Any taxpayer or employer desiring a special ruling on any matter pertaining to the Ordinance or these Rules and Regulations, should submit to the Administrator in writing all the facts involved and the ruling sought.

3. These Regulations, together with all amendments and supplements hereto and all changes herein, will be on file at the office of the Administrator, City Hall, Brooklyn, Ohio and will be open to public inspection.

4. The Administrator is authorized to arrange for the payment of unpaid taxes, interest, and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the Ordinance.

5. Failure to make any deferred payment when due, shall cause the total unpaid amount including penalty and interest, to become payable on demand and the provisions of Section 8 and 9 of the Ordinance shall apply.

C. Estimation of Tax by Administrator.

1. Whenever the Administrator has been unable to secure information from the taxpayer as to his taxable income for any year, he may determine the amount of tax appearing to be due and assess the taxpayer upon the basis of such determination, together with the interest and penalties as prescribed in Section 8 of the Ordinance.

2. Such determination of tax may be adjusted upon submission by the taxpayer of actual record from which his tax may be computed.

D. Investigations by Administrator.

1. The Administrator, or any employee of the City of Brooklyn designated in writing by the Administrator, is authorized to examine the books, papers, records and Federal income tax returns of any employer, taxpayer or person subject to the Ordinance, or whom the Administrator believes is subject to the provisions of the Ordinance, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under the Ordinance.

2. An employer or taxpayer shall furnish, within ten (10) days following a written request by the Administrator or such duly designated employee of the City of Brooklyn, the means, facilities and opportunity for making examinations and investigations authorized by the Ordinance.

E. Subpoena of Records and Persons.

1. The Administrator or any person acting in his capacity, is authorized to examine any person, under oath, concerning any income which was or should have been returned for taxation, or any transaction tending to affect such income. The Administrator may compel the production of books, papers and records and the attendance of all persons before him whether as parties or witnesses, whenever he believes such persons have knowledge of the facts concerning any supposed income or supposed transaction of the taxpayer.

2. The Administrator's order to examine any document mentioned in the preceding paragraph shall state whether the examination is to be at the office of the taxpayer or at the office of the Administrator.

3. The Administrator may order the appearance before him, or his duly authorized agent, of any party whom he believes to have any knowledge of a taxpayer's income or withholdings, or any information pertaining to the taxpayer under investigation, whether or not the individual so ordered has actual custody of the records of the taxpayer being investigated. The Administrator is specifically authorized to order the appearance of the local manager or representative of any taxpayer.

4. Persons required to attend any hearings shall be notified not less than ten (10) days prior to the time of the hearing. The notice shall show the time and place of the hearing and what books, papers or records the witness is to make available at such hearing.

5. The notice shall be served by the Administrator, or his duly authorized agent, by delivering it to the person named personally, or by leaving the notice at his usual place of business or residence, or by mailing it to the person by registered mail, return receipt requested, addressed to his usual place of business or residence.

F. Penalty for Non-Compliance.

Refusal by any employer, taxpayer, or supposed taxpayer, or the refusal of any such person to appear before the Administrator or his duly authorized agent, to submit to such examination and to produce the records requested constitutes a misdemeanor punishable by fine or imprisonment, or both, as prescribed by Section 8 of the Ordinance.

F. Confidential Nature of Examinations.

Any information gained as the result of any returns, investigations, hearings, or verifications required or authorized by the Ordinance shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of the Ordinance, shall, upon conviction thereof, be deemed guilty of a first degree misdemeanor and shall be subject to a fine and penalty of One Thousand Dollars (\$1,000.00) and imprisonment for not more than six (6) months. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City of Brooklyn who violates the provisions of this Article relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

G. Retention of Records.

All employers and taxpayers are required to keep such records as will enable the filing of true and accurate returns whether of taxes withheld at the source or of taxes payable upon earnings or net profits, or both. Such records shall be preserved for a period of not less than five (5) years from the date the final return is filed and paid or the withholding taxes are paid.

H. Authority to Contract for Central Collection Facilities.

The Administrator may and he is authorized hereby to enter into an agreement on behalf of the City of Brooklyn with any other municipal corporation for the purpose of administering the income tax laws of such other municipal corporation as its agent and of providing a central collection facility for the collection of the income tax on behalf of such other municipal corporation.

### **ARTICLE XIII BOARD OF REVIEW**

A. Board of Review Established.

A Board of Review, consisting of the Director of Finance, or a person designated by him, the Director of Law, or an Assistant Director of Law designated by him, and the Mayor, or a person designated by him, is hereby created. The Board shall select, each year for a one-year term, one of its members to serve as Chairman and one to serve as Secretary. A Majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 12.8 of the Ordinance with reference to the confidential character of information required to be disclosed by the Ordinance shall apply to such matters as may be heard before the Board on appeal.

**B. Duty to Approve Regulations and to Hear Appeals.**

All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by the Ordinance, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

**C. Right of Appeal.**

Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by the Ordinance may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

**ARTICLE XIV-1  
SAVING CLAUSE**

NO REGULATION AS THIS SECTION PERTAINS TO THE LEGALITY OF THE ORDINANCE AND NOT TO ITS ADMINISTRATION.

**ARTICLE XIV-2  
COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE**

**A. Authority to Collect after Termination of Ordinance.**

The Ordinance shall continue effective insofar as the levy of taxes is concerned until repealed.

**B. Payment of Taxes.**

1. Taxes due and unpaid on account of compensation paid or received and on any account of profits earned in the last effective year of the Ordinance or any

part thereof which remain unpaid, are payable in full on or before the dates specified in Section 6 and 7.1 of the Ordinance and Articles VI and VII of these Regulations, and all final returns and withholding reports must be filed on or before that date, unless extended by the Administrator.

2. For purposes of collection of delinquent or unpaid taxes, action or proceedings for such collection and/or the collection of interest and penalties thereon, or enforcing any provisions of the Ordinance (including prosecutions under the criminal sections of the Ordinance and including appeals before the Board of Review), the Ordinance remains in full force and effect until such time as all actions, suits, prosecutions, appeals and other judicial or administrative proceedings relative to the collection or payment of such taxes, have been finally terminated.

## **ARTICLE XV AMENDMENTS AND SUPPLEMENTS**

- A. From time to time amendments and supplements to these Regulations may be issued by the Administrator.

Adopted: September 10, 2001

/s/Gale Fisk

Income Tax Administrator, City of Brooklyn

Approved: September 10, 2001

Board of Review, City of Brooklyn

By:/s/Gale Fisk

Director of Finance

By:/s/Thomas Shaper

Director of Law

By:/s/Kenneth E. Patton

Mayor

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## CALENDAR

### FINAL DATES FOR FILING RETURNS AND PAYING TAX

January 31     EMPLOYERS WITHHOLDING (MONTHLY): Returns of Income Tax withheld in December of preceding year if the amount withheld was \$400.00 or more.

EMPLOYERS WITHHOLDING (QUARTERLY): Returns of Income Tax withheld in the fourth quarter of the preceding year. To be filed by employers who have withheld less than \$400.00 per month and therefore have not filed monthly returns.

EMPLOYERS: Withholding Statements. A detailed list showing employees, address, gross earnings and Brooklyn City Income Tax withheld on each. A reconciliation of return will be required to accompany this data.

TAXPAYERS: Fourth quarterly installment payment of the preceding year's estimated income tax.

February 28    EMPLOYERS WITHHOLDING (MONTHLY): Return of Income Tax withheld in January if the amount withheld was \$400.00 or more.

- March 31 EMPLOYERS WITHHOLDING (MONTHLY): Return of Income Tax withheld in February if the amount withheld was \$400.00 or more.
- April 30 EMPLOYERS WITHHOLDING (MONTHLY): Return of Income Tax withheld in March if the amount withheld was \$400.00 or more.
- EMPLOYERS WITHHOLDING (QUARTERLY): Return of Income Tax withheld in the first quarter. To be filed by employers who have withheld less than \$400.00 per month and therefore have not filed monthly returns.
- TAXPAYERS: Final Income Tax Return for the preceding year.
- TAXPAYER: Declaration of Estimated Tax for the current year, accompanied by first quarterly, installment payment.
- May 31 EMPLOYERS WITHHOLDING (MONTHLY): Return of Income Tax withheld in April if the amount withheld was \$400.00 or more.
- June 30 EMPLOYERS WITHHOLDING (MONTHLY): Return of Income Tax withheld in April if the amount withheld was \$400.00 or more.
- TAXPAYER: Second quarterly installment payment of estimated income tax.
- July 31 EMPLOYERS WITHHOLDING (MONTHLY): Return of Income Tax withheld in June if the amount withheld was \$400.00 or more.
- EMPLOYERS WITHHOLDING (QUARTERLY): Return of Income Tax withheld in the second quarter. To be filed by employers who have withheld less than \$400.00 per month and therefore have not filed monthly return.
- August 31 EMPLOYERS WITHHOLDING (MONTHLY): Return of Income Tax withheld in July if the amount withheld was \$400.00 or more.
- September 30 EMPLOYERS WITHHOLDING (MONTHLY): Return of Income Tax withheld in August if the amount withheld was \$400.00 or more.
- TAXPAYERS: Third quarterly installment payment of estimated income tax.
- October 31 EMPLOYERS WITHHOLDING (MONTHLY): Return of Income Tax withheld in September if the amount withheld was \$400.00 or more.
- EMPLOYERS WITHHOLDING (QUARTERLY): Return of Income Tax withheld in the third quarter. To be filed by employers who have withheld less than \$400.00 per month and therefore have not filed.

November 30 EMPLOYERS WITHHOLDING (MONTHLY): Return of Income Tax withheld in October if the amount withheld was \$400.00 or more.

December 31 EMPLOYERS WITHHOLDING (MONTHLY): Return of Income Tax withheld in November if the amount withheld was \$400.00 or more.

TAXPAYERS: Fourth quarterly installment payment of estimated income tax.

PLEASE TAKE NOTE:

Fiscal year taxpayers shall file final tax return and declaration of Estimated Tax by the last day of the fourth month after the close of their fiscal year. Subsequent quarterly installment payments of estimated tax are due every three months thereafter.

Taxpayers whose entire income is derived from salary and wages shall file on a calendar basis, with the attached to show proof of tax withheld, and what municipality accepts the payroll taxes.